IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

WP(C).No. 1462 of 2005(Y)

PETITIONER:

M.R.GOPALAKRISHNA PILLAI,S/O.RAMAKRISHNA PILLAI,AGED 65 YEARS,FITTER GRADE-II(RETD),DOCK AND REPAIRS SECTION,KERALA STATE WATER TRANSPORT DEPARTMENT,ALAPPUZHA AND RESIDING AT MATHYANATHU HOUSE,KAVALAM P.O.,ALAPPUZHA.

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS:

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1. THE STATE OF KERALA REP. BY THE SECRETARY TO GOVERNMENT,TRANSPORT (B) DEPARTMENT, SECRETARIAT,THIRUVANANTHAPURAM.

2. THE DIRECTOR,KERALA STATE WATER TRANSPORT DEPARTMENT,ALAPPUZHA.

BY GOVERNMENT PLEADER SRI BIJOY CHANDRAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF JUDGMENT DTD. 22.06.1999 IN W.A. NO.1564/1996 PASSED BY THE HON'BLE HIGH COURT OF KERALA.

EXT.P2: COPY OF PETITION DTD. 16.08.1999 SUBMITTED BY THE PETITIONER TO THE CHIEF SECRETARY TO GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

EXT.P3: COPY OF APPLICATION FOR EX-GRATIA PENSION DTD. 25.12.2004 SUBMITTED BY THE PETITIONER.

EXT.P4: COPY OF ORDER.G.O.(P).NO.1851/99/FIN. DTD. 18.09.1999 ISSUED BY THE PRINCIPAL SECRETARY (FINANCE), FINANCE PAY REVISION IMPLEMENTATION DEPT, GOVT. OF KERALA, THIRUVANANTHAPURAM.

EXT.P5: COPY OF PENSION PAYMENT ORDER NO.CNR/20212 DTD.06/2000 ISSUED BY THE ACCOUNTS OFFICER, O/O. THE ACCOUNTANT GENERAL (A&E), KERALA THIRUVANANTHAPURAM TO SHRI.P. HARIDAS.

EXT.P6: COPY OF REPRESENTATION DTD. 17.06.2004 SUBMITTED BY THE PETITIONER TO THE FIRST RESPONDENT WITHOUT ANNEXURES.

EXT.P7: COPY OF JUDGMENT DTD. 23.07.2004 IN O.P.NO. 19571/2002-E PASSED BY THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM.

EXT.P8: COPY OF ORDER NO. G.O.(MS) .3/79/W&T DTD. 06.01.1979 ISSUED BY THE ADDITIONAL SECRETARY TO GOVERNEMNT, WATER AND TRANSPORT (A) DEPARTMENT , GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

RESPONDENT'S EXHIBITS: NIL

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// TRUE COPY //

K. BALAKRISHNAN NAIR, J.

W.P.(C) No.1462 of 2005 - Y

JUDGMENT

The petitioner is an ex-serviceman. He joined the State Water Transport Department as a provisional hand in the post of Fitter Grade II on 26.9.1976. He was selected for provisional appointment, based on the sponsoring made by the Employment Exchange. He retired from service on 31.10.1996. The petitioner along with others moved for regularisation in service. When the said claim was rejected, he filed O.P.No.11508/1991. The said writ petition was dismissed on 27.6.1996. He filed W.A.No.1564/1996. The said writ appeal was disposed of by Ext.P1 judgment, directing the Government to consider the case of the petitioner sympathetically. Based on Ext.P1, he submitted Ext.P2 representation, which was not allowed by the Government. While so, the Government issued Ext.P4 order dated 18.9.1999, providing for ex-gratia pension to those who are not eligible to get pension. The said scheme for ex-gratia pension was introduced with retrospective effect from 1.10.1999. Based on Ext.P4, the petitioner submitted Ext.P3 application for ex-gratia pension on

25.12.2004. He filed Ext.P6 representation before the Government on 17.6.2004, on finding that another person, similarly placed like the petitioner, was paid ex gratia pension, as evident from Ext.P5. While so, two of the petitioner's colleagues moved this Court by filing O.P. No.19571/2002. The said O.P was allowed by Ext.P7 judgment. The Government was directed to grant ex-gratia pension. The petitioners in Ext.P7 were also ex-servicemen. They, like the petitioner herein, were provisional hands all throughout their service. Relying on Ext.P7, the petitioner prays for granting ex-gratia pension to him also. This writ petition was filed, mainly seeking the above reliefs.

2. The respondents have filed a counter affidavit, stating that Ext.P4 G.O is not applicable to provisional hands. It is also submitted that Ext.P7 judgment was rendered on the special facts of the case. So, the respondents pray for dismissal of the writ petition.

3. Heard. Going by Ext.P4, it would appear that the same is meant for regular employees, who could not draw pension because of the dearth of qualifying service. But, I find that there was no appeal Ext.P7 and it has become final. The petitioners therein have already been

granted ex-gratia pension. So, there is no justification for not granting said benefit to the petitioner herein, who is their colleague. Therefore, the respondents are directed to grant the same benefit extended to the petitioners in Ext.P7, to the writ petitioner herein also. This, the respondent shall do within two months from the date of production of a copy of this judgment.

The Writ Petition is disposed of as above.

K. BALAKRISHNAN NAIR,
JUDGE.

25th July, 2007.
nm.